

Atty Dkt. No.: LIFE-016
USPN: 02/737,179

REMARKS

Claim 1-7, 9-11, 13, 14, 16, 19-21 and 23-27 were examined.

Claims 1-7, 9-11, 13, 14, 16, 19-21 and 23-27 were rejected.

Claim 1 has been amended.

Claims 1-7, 9-11, 13, 14, 16, 18-21, 23-27 and 29 are pending after the entry of the amendments made herein.

Claim 1 has been amended to delete the word "first", to clarify the invention.

Claim 29 has been added as new. Support for this claim may be found in the specification and originally filed claims, e.g., Fig. 1.

In view of the above amendments and the following remarks, the Examiner is respectfully requested to withdraw the rejections and allow Claims 1-7, 9-11, 13, 14, 16, 18-21, 23-27 and 29, the only claims pending in this application.

The undersigned thanks the Examiner for the helpful telephonic interview held on December 31, 2003.

As no new matter has been added by the above amendments, the Applicants respectfully request the entry thereof.

REJECTION UNDER 35 U.S.C. §103(a)

The Examiner has rejected claims 1-7, 9-11, 13-14, 16, 18-21, 23 and 25-27 under 35 U.S.C. §103(a) as being unpatentable over Kloepper in view of Henschen et al. The Applicants respectfully submit that claims 1-7, 9-11, 13-14, 16, 18-21, 23 and 25-27 are patentable over the cited references.

The Applicants respectfully submit that the cited references either alone or in combination fail to teach or suggest all of the claimed limitations. Claim 1, and the claims that depend therefrom, specify methods that includes cutting a test strip precursor material into a plurality of reagent test strips according to an interdigitating pattern of a series of inter-laced, oppositely oriented projections positioned on the precursor material.

In making this rejection, the Examiner acknowledges that Kloepper is silent to the claimed interdigitating pattern of the precursor and asserts that it would have been obvious to modify Kloepper in view of Henschen et al. to use an interdigitating pattern when outlining test devices on the precursor

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because Henschen et al. teach "that two interdigitated rows of electrodes are advantageous because it save the amount of metal required when compared to a single row of terminals." However, Henschen et al. do not teach or even suggest a series of inter-laced, oppositely opposed projections.

The Examiner relies on col. 9, lines 101 of Henschen et al. wherein the Examiner asserts Henschen et al. teach an interdigitating pattern. Applicants respectfully disagree with the Examiner's interpretation of this passage in Henschen et al. From lines 18 to 25, the passage states that "The provision of two interdigitated rows of terminals 20 and 21, such as with each row of terminals stamped at twice the desired contact spacing such that when interdigitated the terminals on the desired contact spacing therefore (i.e., the embodiment illustrated in FIG. 1) offers distinct advantages for certain applications over the embodiment utilizing only a single row of terminals (i.e., the embodiment illustrated in Figs. 4 and 5)." When comparing the two embodiments referenced in this passage, it is clear that by "interdigitated" Henschen et al. refers to the vertical offset between the two sets of terminals (terminal set 20 and terminal set 21). To explain a bit further, each terminal set includes a plurality of terminals which extend from a different substrate (terminals 20 extend from substrate 17 and terminals 21 extends from substrate 27) where the two substrates are stacked (i.e., substrate 17 is positioned on top of substrate 27) thereby providing the offset (col. 2, lines 34-43).

Applicants further submit that, as used in Henschen et al, "interdigitated" while meaning, "offset" does not further mean "oppositely oriented." As shown in Fig. 1, terminals 20 and terminals 21 are oriented in the same direction, in other words, the distal ends of terminals 20 and the distal ends of terminals 21 are aligned along the same edge of the carrier strip assembly 10 (see for example col. 6, lines 24-26 and FIG. 1). Likewise the proximal or intermediate ends of the terminals (solder cups 22 on terminals 20 and solder cups 23 on terminals 21) are adjacently aligned with each other. In other words, the orientation of terminals 20 and terminals 21 are the same, not opposite to each other. Accordingly, the term "interdigitated" as used by Henschen et al. does not include an oppositely oriented configuration, and in fact, appears to having nothing to do with the orientation of the terminals.

In sum, Henschen et al. do not disclose, teach or suggest the pattern as claimed in the subject claims; namely, a series of inter-laced and oppositely oriented projections. Additionally, Henschen et al. do not disclose, teach or suggest any other analogous pattern positioned on a precursor of any kind as Henschen et al. teach stacked carrier strips of terminals that all face the same direction and thus are not oppositely oriented. Accordingly, for at least this reason a *prima facie* case of obviousness cannot be made.

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Furthermore, claim 1 and the claims that depend therefrom, specify a stripe of reagent material positioned along a central axis of the test strip precursor. However, neither reference teaches or suggests a stripe of reagent material positioned along a central axis of the test strip precursor or along a precursor of any kind. The continuous strip 328 of FIG. 11 of Kloepper clearly lacks a stripe of reagent material positioned along a central axis of the strip. Henschen et al. fail to teach or suggest a stripe of reagent material at all.

For at least the reasons described above, the Applicants respectfully submit that claims 1-7, 9-11, 13-4, 16, 18-21, 23 and 25-27 are patentable under 35 U.S.C. §103(a) over Kloepper in view of Henschen et al. As such, the Applicants respectfully request that this rejection be withdrawn.

The Examiner has rejected claim 24 under 35 U.S.C. §103(a) as being unpatentable over Kloepper in view of Henschen et al. and in further view of Garcia et al. Garcia et al. is cited solely for teaching a lance and as such fails to teach or suggest a pattern that includes a series of inter-laced and oppositely oriented projection as claimed in the subject claims, which pattern is not taught or suggested in Kloepper or Henschen et al., as described above. Furthermore, Garcia, et al. also fail to teach or suggest a stripe of reagent material positioned along a central axis of the test strip precursor. Accordingly, Garcia et al. fail to make up for the deficiencies of Kloepper and Henschen et al. As such, for at least these reasons, the Applicants respectfully request that this rejection be withdrawn.

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CONCLUSION

In view of the remarks, this application is considered to be in good and proper form for allowance and the Examiner is respectfully requested to pass this application to issue.

The Commissioner is hereby authorized to charge any fees under 37 C.F.R. §§1.16 and 1.17 which may be required by this paper, or to credit any overpayment, to Deposit Account No. 50-0815, reference no. LIFE-016.

Respectfully submitted,
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Date: 1/5/04

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